

SEALED

UNITED STATES DISTRICT COURT

OCT - 2 2018

for the
Western District of VirginiaJULIA C. DUDLEY, CLERK
BY: *A. Maylock*
DEPUTY CLERK

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)TOOL BOX OWNED BY JOSEPH SKELTON,
LOCATED ON THE PREMISES OF 135 BEAR CREEK
RD., MARION, VA 24354

Case No. 1:18mj139

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

located in the Western District of Virginia, there is now concealed (identify the person or describe the property to be seized):

SEE ATTACHED

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
26 USC 5845	Making Machine Guns in Violation of National Firearms Act
5861 PFG	
10/2/2018 PMS	
10/2/18	

The application is based on these facts:
SEE ATTACHED.

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

P. Gonzalves 10/2/2018

Applicant's signature

Peter Gonzalves, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/02/2018City and state: Abingdon, VA*Pamela Meade Sargent*

Judge's signature

Hon. Pamela Meade Sargent, US Magistrate Judge

Printed name and title

ATTACHMENT A

DESCRIPTION OF PLACES TO BE SEARCHED

PLACE TO BE SEARCHED:

A rolling cabinet, commonly known as a "tool box," owned by Joseph Skelton. The tool box is currently located in the manufacturing facilities of Royal Building Products, located at the below referenced premises. It is red in color, bears the brand name "Craftsman," and has a strip of paper affixed to one of the drawers bearing the text "Have You Hugged Your Machine Gun Today?"

LOCATION OF THE PREMISES:

Royal Building Products is located at 135 Bear Creek Rd., Marion, VA 24354



Picture taken October 2018

ATTACHMENT B

List of items to be searched for and seized at premise

1. Electronic equipment, such as mobile telephones, computers, electronic media storage devices, and any information stored in memory or contained in any related hardware and software.
2. Photographs, in particular, photographs of individuals with firearms, and other documents identifying associates and conspirators. Printouts of CAD drawings relating to the manufacture of firearms or components.
3. Address and telephone books and papers reflecting names, address and telephone numbers.
4. Firearms, firearm magazines, firearm attachments, ammunition, firearm parts and evidence of manufacturing of such; documentation of the purchase, storage, possession, disposition, dominion and control of firearms or firearm parts, including paperwork and receipts.
5. Any locked or closed container(s) believed to contain any of the above listed evidence.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA

Abingdon Division

IN THE MATTER OF THE APPLICATION OF
THE UNITED STATES OF AMERICA FOR A
SEARCH WARRANT FOR TOOL BOX OWNED
BY JOSEPH SKELTON, LOCATED ON THE
PREMISES OF 135 BEAR CREEK RD., MARION,
VA 24354

UNDER SEAL

1:18-sw-

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Peter Gonzalves, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Bureau of Alcohol Tobacco Firearms and Explosives ("ATF") and have been so employed since August 2016. I am currently assigned to the Bristol, Virginia Field Office. Prior to becoming an ATF Special Agent, I was a Special Agent with the US Department of State, Diplomatic Security Service for approximately six years. I have taken part in numerous federal, state, and local investigations concerning document and identity fraud, financial fraud, cyber crimes, and firearms and narcotics violations.

2. This affidavit is submitted in support of an application for a warrant to search the tool box owned by Joe SKELTON, currently located at the Royal Building Products manufacturing facility at 135 Bear Creek Rd., Marion, VA 24354. As set forth in greater detail below, I believe there is probable cause to believe SKELTON is manufacturing, or is attempting to manufacture, machine gun components in violation of the National Firearms Act (NFA) of 1934, Title 26 United States Code Section 5861.

3. This affidavit does not contain every fact known to me regarding this investigation, but rather contains information necessary to demonstrate probable cause in support of the above-referenced search warrant. In addition, I set forth the following facts showing that there are sufficient grounds to believe SKELTON has concealed in his tool box evidence of making or transferring items that meet the legal definition of “machine guns” pursuant to the NFA, 26 USC Section 5845.

4. The facts and information contained in this affidavit are based on my personal knowledge and information obtained from federal and state law enforcement officers. All observations referenced in this affidavit that were not personally made by me were relayed to me by the person(s) who made such observations or in reports that detailed the events described by that person(s).

PROBABLE CAUSE

A. Facts and Circumstances

2. On October 1, 2018, I (ATF SA Gonzalves) received a phone call from a Confidential Source (CS) indicating the CS believed another employee at the CS’s workplace is manufacturing parts to convert a semi-automatic firearm to a machine gun. The CS reported another employee found Computer Aided Design (CAD) drawings on a company owned computerized machine tool corresponding to what the CS believes to be firearm components. The CS notified the Virginia State Police (VSP), who suggested the CS contact the local ATF office for assistance. I asked the CS to send photographs of the drawings and leftover metal parts by email for review.

3. _____ After receiving the photographs from the CS, I sent them to the ATF Firearms Technology Criminal Branch (FTCB) for review. Firearms Enforcement Officer (FEO) Davis reviewed the photos, and advised the drawings resemble components of what is commonly known as a "Glock Switch." When conducting a further review of better quality photos of the same drawings taken by law enforcement, which included dimensional information, FEO Davis stated he is confident the drawings depict the components required to manufacture a Glock switch. FEO Davis then referenced the photo of the piece of metal appearing to have several parts cut out of it. FEO Davis believes the cuts on that piece of metal are consistent with the shape of one of the components depicted in the drawings. I examined the piece of metal the shop employees reported discovering. There are several cutouts in this piece of metal that roughly match the shape and dimensions of one of the parts shown in the drawings.

4. _____ Employees at the plant reported to agents that SKELTON is the only employee at the facility trained on how to use this particular machine who works the 6 PM to 6 AM shift. Employees further reported SKELTON worked from 6 PM Friday September 28, 2018 to 6 AM Saturday September 29, 2018. On September 29, 2018, the employee who runs that machine during the day shift discovered the CAD files open on the machine within a timeframe of approximately 30 minutes after beginning his shift at 6 AM. That employee recognized the drawings as possible machine gun components, and alerted management at the facility.

5. Employees at the manufacturing facility reported SKELTON lives at 1618 Cranberry Rd, Galax VA. They also stated he drives a maroon colored pickup truck.

Agents drove by this address on 10/1/2018, and there was a maroon Nissan Frontier parked in the driveway of the residence. The license plate on the vehicle is VA VHR4930. The VA Department of Motor Vehicles (DMV) database shows this tag as registered to Joseph SKELTON at that address. Commercial database checks also show SKELTON has history at that address.

6. Employees further stated to Agents SKELTON has a tool box located at their facility. According to company policy, SKELTON is required to supply his own tools in order to complete his work assignments. SKELTON keeps a personally owned locking cabinet near his work space to store his personally owned tools. (Described in Attachment A) PFG 10/2/2018 pms 10/2/18

G. Background Information

8. Based on my training and experience, I know "Glock switch" is a colloquial term for a group of mechanical components that is expressly designed and intended for use in converting a semiautomatic Glock pistol to a machine gun. The group of components is referred to as a "switch" because the conversion process involves installing a physical selector switch on the exterior of the pistol, allowing the user to choose which mode the pistol will operate in. The choices are semiautomatic mode and automatic mode. As these components are designed to fit inside a pistol, they are very small and can be concealed in any number of locations. They can be concealed on an individual's person, in a residence or in a mobile conveyance.

9. I also know there are several sites on the internet where users can download files containing CAD drawings for any number of machined components, including firearm components, machine gun components, and Glock switch components.

There are also several sources where users can obtain instructions on how to manufacture and install Glock switches.

10. The Gun Control Act of 1968 (GCA), Title 18 USC Section 921 defines semiautomatic as “any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.”

11. The NFA, Title 26 USC Section 5845, defines a machine gun as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.”

12. Based on my training and experience, I know the CAD process can be broken down into two phases: drawing and fabrication. The drawing phase consists of digitally creating detailed visual representations of the component to be fabricated, including specifying all physical dimensions of the part. As this process is all electronic and takes place on a computer, the drawings and associated data are stored as files on the computer or a digital storage device.

13. When the drawings are completed, the files can then be interpreted to develop a programmed procedure for a particular machine tool to follow when

fabricating the component depicted in the electronic drawing. Much like computers, modern computerized machine tools take their instructions from files commonly known as programs. The instructions stored in the programs correspond to settings, specific motions, and other parameters required to fabricate a part correctly. Simple parts can be fabricated in a single machining operation requiring only one program, while more complex parts can require several extensive machining operations and several associated CAD files.

14. Much like computers, modern computerized machine tools have an on-board digital memory system for storing data. In many instances, programs can be stored in the computer's memory system to be run repeatedly or at a later time. The number of programs that can be stored in a particular machine tool's memory is limited by the volume of digital storage available in the machine's on-board storage system. Modern machine tools can also accept external storage media, such as portable hard drives or "thumb drives," to transfer information from an external source.

15. Since CAD drawings and machine tool programs take the form of computer files, they can be stored on any modern digital storage device. This includes but is not limited to computers, mobile devices (cell phones, tablets, etc.), portable hard drives, and thumb drives.

16. Based on my training and experience, I know individuals who engage in the manufacture of these types of components often communicate with others via the internet for technical support, to brag about their activities, or offer the components for sale to other individuals. Individuals communicating via the internet can use desktop

computers, laptop computers, mobile devices, or game consoles to engage in these communications. The conduits for these communications can take the form of email, third party messaging applications, web based chat rooms or message forums, or other media. Communicating by any of these means can leave digital trace evidence on the device used, which can be recovered via digital forensic examination of the data stored on the device. Digital storage devices can be very small, and can be concealed in residences, mobile conveyances, or on an individual's person.

CONCLUSION

17. Based on the facts and circumstances stated above, I submit that there is probable cause to believe that the above-described firearm violations have occurred, and that evidence of these violations can be found in the tool box at the above referenced location.

Respectfully submitted,

PLG 10/2/2018

Peter Gonzalves
Special Agent
Bureau of Alcohol, Tobacco, Firearms, and
Explosives

Subscribed and sworn to before me on October 2nd, 2018.

Pamela Meade Sargent
The Hon. Pamela Meade Sargent
United States Magistrate Judge